

REPORT TO THE JERICHO DEVELOPMENT REVIEW BOARD

DEVELOPMENT REVIEW BOARD HEARING DATE: May 12, 2016

REPORT PREPARATION DATE: May 3, 2016

APPLICATION TYPE: Amendment to final plan for 6 unit PUD, adjacent to foothills

APPLICANT/OWNER:

DESCRIPTION: This application proposes a final plan amendment to the previously approved DRB decision on 09/25/14. The amendment proposes to remove the individual “footprint” lots within the PUD, but maintaining the density of 6 units.

INFORMATION:

LOCATION: 44 Raceway Road

PARCEL NO: RW044

TOTAL ACREAGE: 28.96 acres (subdivided from 123 acre parcel in approval on 09/25/14)

ZONING DISTRICT(S): Agriculture (driveway in Village Zoning)

EXISTING USE: Forested/Agriculture

PROPOSED USE: Residential

NOTICE OF PUBLIC WARNING/ ABUTTERS:

Notice of Public Warning published – *Published on April 21, 2016*

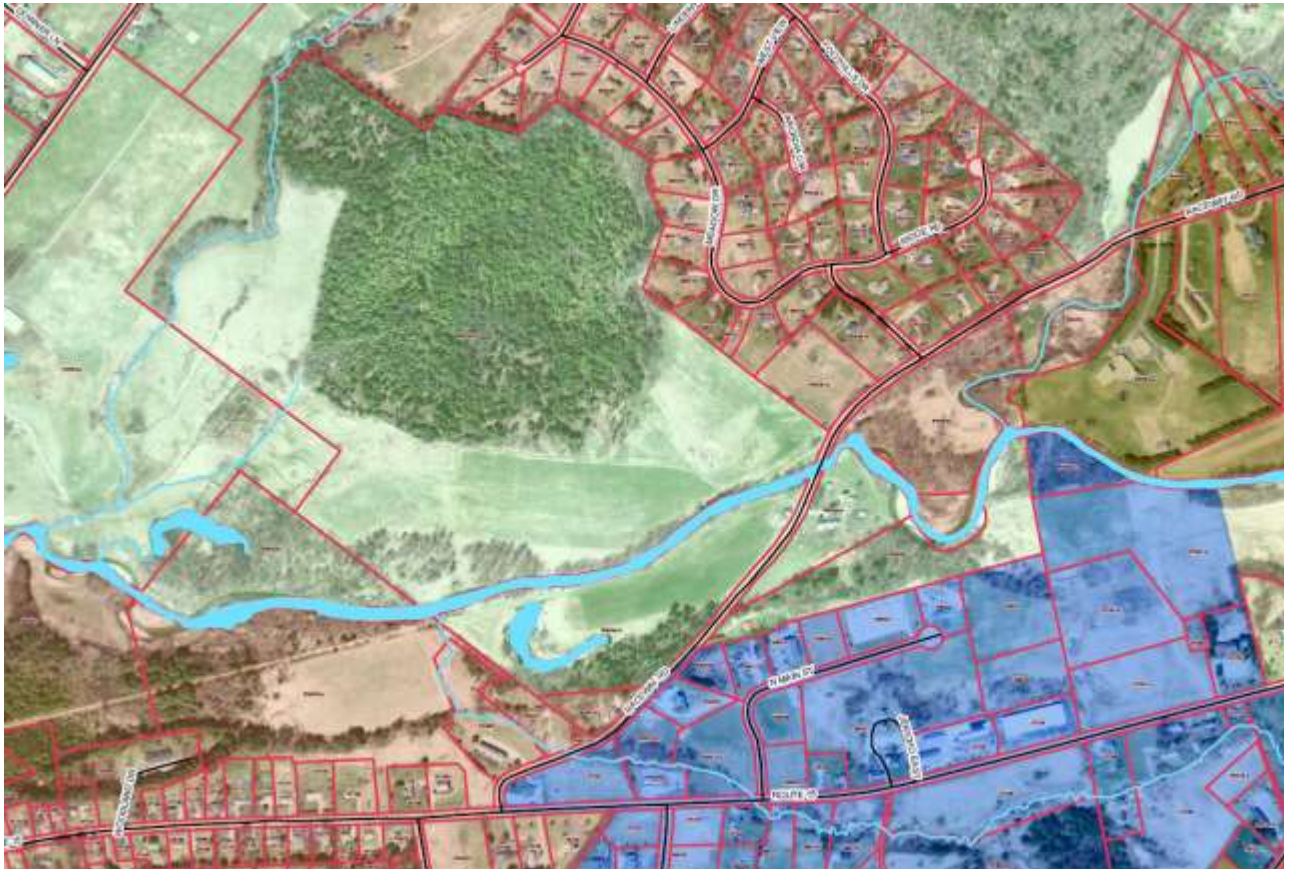
Notice of Public Warning posted – *April 21, 2014*

Onsite posting sent on – *April 21, 2014*

Notice of Public Warning sent to abutters and applicants—*April 21, 2014*

Agenda to be posted – *May 5, 2016*

LOCATION MAP:



PROJECT OVERVIEW

The parcel contains grasslands and forested wetland areas. The parcel is located in a 10-acre zoning district between two (2) 1-acre zoning districts- the Village District (Foothills subdivision) and the Commercial District.

The parent parcel is part of a larger parcel (approximately 123 acres) located on both sides of Raceway Road owned by Dean Davis. The DRB approval on September 25, 2014 subdivided 28.96 acres from the parent parcel, and created three new “footprint” lots. The applicant now proposes to amend this subdivision by removing the individual lots (expressed by the applicant as “footprint” lots) and the limited common area. The whole 28.96 acre parcel is now proposed as common land. The 6 units (3 duplexes) are still proposed as senior housing. The subdivision is located in the Agricultural Zoning District, within an open field located at the edge of the Village Zoning District, directly adjacent to the western edge of the Foothills residential subdivision.

Approximate timeline of PREVIOUS ACTIVITY

Previously, this was a vacant lot used for farming.

May 22, 2014: The applicant appeared before the DRB for a sketch plan review of 6-unit PUD

Sept. 25, 2014: The applicant appeared before the DRB requesting final approval of a 6-unit, 3-duplex PUD subdivision

October 27, 2014: DRB issued approval of 9/25/14 hearing

December 3, 2014: Notice of appeal of DRB decision & WW permit filed with VT Environmental Court

December 9, 2014: Request by applicant to dismiss appeal of DRB decision & WW permit

July 8, 2015: Request by Carl Lisman to District Environmental Commission Coordinator to review Norton Meadows project and require Act 250 review

October 8, 2015: Jurisdictional Opinion issued by District Environmental Commission Coordinator, stating Act 250 approval is required

October 26, 2015: Applicant requests reconsideration of District Environmental Commission Jurisdictional Opinion to Natural Resources Board

February 4, 2016: Environmental court upheld DRB approval issued 10/27/2014

February 23, 2016: Natural Resources Board upholds decision by District Environmental Commission Coordinator that Act 250 review is required

DEPARTMENTAL REVIEW AND COMMENTS *As encouraged by 10.8.1., this application is subject to the following concurrent review standards*

10.12 Subdivision Review

10.13 Planned Unit Development Review

11.0 General Development Standards

10.9 Conditional Use Approval

10.12. SUBDIVISION REVIEW

10.12.1. Purpose: Subdivision review is intended to ensure orderly growth and coordinated development in the Town of Jericho, to guide community settlement patterns, to ensure the efficient extension of services, utilities, and facilities as land is developed, to promote the health, safety, and general welfare of the Town’s inhabitants, and to implement the Jericho Comprehensive Town Plan as most recently amended.

10.12.2. Applicability: In accordance with the ACT [§4418], Subdivision Review by the DRB is required whenever any subdivision of land is proposed for the purpose of sale, lease or development. Applications for Planned Unit Development shall be reviewed under subdivision review concurrently with Planned Unit Development review in Section 10.13.

10.12.3. Minor vs. Major: For the purpose of these regulations, subdivision of land shall be classified by the Zoning Administrator as a minor or major subdivision as follows:

10.12.3.1. Minor subdivisions shall include any subdivision of land, or the resubdivision of a previously subdivided parcel within a period of 120 months, that results in the creation of three [3] or fewer lots (not including open land in a PUD) and which does not require the construction of any new public or private roads. Minor subdivisions shall also include an amendment to an approved subdivision which does not result in a major subdivision. Minor subdivisions shall require final review approval pursuant to Section 10.12.9. *In the previous approval of September 25, 2014, the board approved Norton way as a shared driveway. As a driveway, this subdivision is technically minor.*

10.12.3.2. Major subdivisions shall include any subdivision of land, or the resubdivision of a previously subdivided parcel within a period of 120 months, that results in the creation of four [4] or more lots (not including open land in a PUD) or which requires the construction of any new public or private streets. Major subdivisions shall require preliminary and final review approval pursuant to Section 10.12.8 and 10.12.9.

10.12.4. Waiver Authority: *None requested.*

10.12.5. Review Standards: The Development Review Board may consider and impose appropriate safeguards, modifications, and conditions relative to the following standards:

10.12.5.1. All subdivisions shall comply with the following General Development Standards found in Section 11 of these regulations. Upon review of the application, the Development Review Board or Zoning Administrator may determine that additional General Development Standards are applicable to a given application (*see below*)

10.12.5.3. As a condition of approval of the preliminary plan and/or final plan, the Development Review Board may require that the applicant obtain all applicable approvals from municipal officials and State and Federal agencies having jurisdiction over the project.

10.12.6. Sketch Plan Review: All applicants for subdivision are encouraged to participate in sketch plan review, as described in Section 10.8.2. *Applicant participated in Sketch Review on May 22, 2014*

10.12.7. Conceptual Plan: *Applicant proposed conceptual plan during Sketch Review on May 22, 2014*

10.12.8. Preliminary Review: *Combined with final review on September 25, 2014.*

10.12.9. Final Review:

10.12.9.1. Applicability. The applicant shall within twelve [12] months of the date of preliminary plan approval submit an application for final approval. If the applicant fails to do so he/she shall be required to submit a new preliminary plan for review by the Development Review Board. The Development Review Board may grant up to two [2] three- [3-] month extensions of preliminary plan approval for reasonable and substantial cause. If phasing was a requirement of preliminary plat approval, a separate final plat application may be filed for each section within the time periods imposed in the preliminary application. *Final review covered within the 12 month allotted period.*

10.12.9.2. Review Process. The Development Review Board shall review all applications for Final Subdivision Review in accordance with Section 10.8 above.

10.12.9.3. Selectboard Approval of Street Detail. Prior to final subdivision approval, all street details shall be reviewed and approved by the Jericho Selectboard. The Selectboard findings shall be reflected

in the Development Review Board's final decision. *Access was approved by the DRB as a private drive. Selectboard approval thus not required.*

10.12.9.4. Legal Documents. The final plat application for a minor or major subdivision shall be accompanied by the following legal documents. Should the Development Review Board determine it necessary to employ an attorney to review any legal documents, the costs of such attorney shall be paid by the applicant. Issues that may be reviewed include but are not limited to:

10.12.9.4.1. Information on all proposed publicly-owned land, Rights-Of-Way, or easements, including certificate of title, offer of irrevocable dedication, and warranty deed, free and clear of all encumbrances, to be recorded after final acceptance of all streets, easements, parks, or other open space by the Town. *Awaiting submittal of revised documents by applicant.*

10.12.9.4.2. Copies of agreements or other documents showing the manner in which common property and/or space is to be maintained, including any conservation easements. Any common property and/or open space shall be defined and consistent with the approved site plan. Open space restrictions and reservations shall be permanent. All lots/units shall receive perpetual right for use of common properties and facilities, unless exempt from this requirement by specific action of the Development Review Board. *Awaiting submittal of revised documents by applicant.*

10.12.9.4.3. Bylaws, Articles of Incorporation, or Covenants of any homeowners association, declaration of condominium, or other applicable legal agreements. Homeowners association responsibility, mandatory membership, and lienable assessment power shall be provided for by the homeowners association documents and individual lot deeds. The association shall have the duty to obtain liability, property, and casualty insurance, and responsibility for expenses relating to management and maintenance of association-owned structures. A provision shall be included for Town takeover in the event of failure of essential services, including the power of the Town to appoint a receiver to assess the property for funds to cure defects in facilities. *Awaiting submittal of revised documents by applicant.*

10.12.9.4.4. All restrictions and covenants to be included in individual deeds. *Awaiting submittal of revised documents by applicant.*

10.12.9.4.5. Any other data, such as contracts, certificates, affidavits, endorsements, receipts, or other materials or agreements which have been required by the Development Review Board or the Selectboard.

10.12.9.5. Effect of Final Approval. The approval by the Development Review Board of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the Town of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Acceptance of such dedications by the applicant may be accomplished only by a formal resolution of the Selectboard.

10.12.10. Recording of Final Plat and Other Documents:

10.12.10.1. Plat Recording Requirements. Final approval of the Development Review Board of a final subdivision plat shall expire unless, within 180 days from the final approval decision, such plat shall have been duly recorded in the office of the Town Clerk. The approval must be endorsed in writing by the Chair of the Development Review Board on the plat. The Plat to be filed with the Town Clerk shall comply with the requirements of the ACT as presently enacted or as hereinafter amended. In accordance with the ACT [§4463(b)], after an approved plat is filed, no expiration of that approval shall be applicable.

10.12.10.2. Plat Void if Revised or Altered. No changes, erasures, modifications, or revisions shall be made on any subdivision plat after approval has been given by the Development Review Board and endorsed in writing on the plat, unless said plat is first resubmitted to the Board and the Board approves any modification. In the event that such subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void. *Original plat was submitted to be filed on 3/3/2015,*

10.12.10.3. Recording. At the time that the Final Plat is recorded, the legal documents listed in Section 10.12.8.4, as may be amended by the Development Review Board, shall be recorded in the Jericho Land Records. *Original plat recorded on 4/9/2015*

10.12.11. Performance Guarantee: The Development Review Board may attach reasonable conditions to ensure the proper installation of required improvements. Such conditions may include the following:

10.12.11.1. Where public improvements are required as part of a final subdivision approval, the Development Review Board may require the posting of a letter of credit, performance bond, escrow, or other surety in an amount agreed upon by the Selectboard, prior to any site modification. The amount shall be sufficient to cover the full cost of completion of the improvements and ensure that the improvements and construction remain in satisfactory condition for a period of three [3] years after completion. Such letter of credit or other security may be divided into different portions over different three [3] year periods to cover phased improvements. If any required improvements have not been installed or maintained as provided within the terms of the letter of credit or other security, it may be forfeited after thirty [30] days written notice. Upon receipt of the proceeds, the Town may install or maintain such improvements, and in the event the proceeds are insufficient, the applicant shall reimburse the Town for the balance. Any balance remaining in escrow at the end of the three [3] year maintenance period shall be refunded to the applicant.

10.12.11.2. All landscaping and plantings shall be guaranteed for three [3] years from the date of planting. The Development Review Board may require a letter of credit, performance bond, escrow or other surety, in an amount sufficient to provide for planting and landscaping and to ensure that landscaping remains in satisfactory condition for a period of three [3] years after completion. Where surety is required, the Development Review Board may specify a schedule for planting and landscaping and for release of any reserved funds. If the applicant fails to install the plantings and landscaping within the specified time period, the letter of credit or other security may be forfeited after thirty [30] days written notice. Upon receipt of the proceeds, the Town may install or maintain such improvements, and in the event the proceeds are insufficient, the applicant shall reimburse the Town for the balance. Any balance remaining in escrow at the end of the three [3] year maintenance period shall be refunded to the applicant. *See condition 12 of original approval.*

10.12.11.3. Where improvements are to be privately owned and maintained (such as streets maintained by a homeowners association), the Development Review Board may require that the applicant provide a licensed engineer's certification that all such improvements have been installed in accordance with the approved plans and the public works specifications (including any waivers granted by the Selectboard). As a condition of approval, the Development Review Board may limit the number of building permits or certificates of occupancy that may be issued prior to receipt by the Town of such certification. *Not a requirement of the previous approval.*

10.12.12. Inspection, Maintenance, and Acceptance of Roadways and Other Improvements

10.12.12.1. Inspection of Roadway Improvements – At least seven [7] days prior to commencing construction of any required roadway improvements, the applicant shall advise the Zoning Administrator and Selectboard when construction is to begin so the Town can inspect during the construction process, in order to ensure satisfactory completion of conditions required by the

Development Review Board. The Selectboard may require that inspections are performed by a licensed engineer at the applicant's expense.

10.12.12.2. Maintenance of Improvements – The applicant or successor shall be required to maintain all improvements (including snow removal) until acceptance of said improvements by the Selectboard.

10.12.12.3. Public Acceptance of Streets, Public Lands and Other Improvements

10.12.12.3.1. If streets are to be public, no building permits shall be issued until proof is shown of acceptance of streets and other improvements by the Selectboard, or an adequate bonding arrangement has been agreed upon by the Selectboard. *Access is not proposed as public.*

10.12.12.3.2. As-built drawings showing the location of improvements certified by a licensed civil engineer shall be filed with the Selectboard prior to the acceptance of the improvements. Until as built drawings are filed, the balance of the letter of credit or other surety shall not be released.

10.12.12.3.3. Upon satisfactory completion of the improvements and submission of legal documents to transfer the property, all letters of credit or other security shall be released, except that sufficient bonding or security shall be retained to guarantee maintenance of streets and other public improvements for the period of time up to three [3] years specified by the Selectboard.

10.12.12.3.4. Final acceptance of all proposed streets and utilities shall be in conformity with the steps and procedures established by the Selectboard.

10.12.12.3.5. Final acceptance of public lands or easements for recreation or open space shall be in conformity with the steps and procedures established by the Selectboard.

10.13. PLANNED UNIT DEVELOPMENT REVIEW

10.13.1. Purpose. Planned Unit Developments (PUDs) are intended to further the goals and objectives of the Jericho Comprehensive Town Plan, the purpose of the underlying zoning district by permitting flexibility in the application of land development regulations, and the purposes below. Flexibility is encouraged in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve these goals, objectives and purposes:

10.13.1.1. To encourage compact, pedestrian-oriented development and to promote a mix of residential uses, nonresidential uses or both in village centers.

10.13.1.2. To encourage provision of affordable housing. *← Units to be designated as senior housing*

10.13.1.3. To encourage any development in rural areas to be compatible with the use and character of surrounding rural lands. *←Environmental court ruled this development is in character with the district*

10.13.1.4. To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan, such as the preservation of agricultural land, forestland, trails and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards. *←95 acres of parent parcel to be retained as agricultural*

10.13.1.5. To provide for efficient use of public facilities and infrastructure.

10.13.1.6. To encourage opportunities for energy-efficient development.

10.13.1.7. To provide a mechanism by which property owners may create small building lots while retaining large tracts of contiguous land. *←Lots have been removed, now common interest ownership*

10.13.2. Applicability: PUDs are encouraged for all development in Jericho. PUD review shall be required in the following circumstances:

10.13.2.1. When a subdivision results in the creation of three [3] or more lots within a period of twelve [12] months, and in the judgment of the Development Review Board a PUD will better meet the objectives of the Jericho Comprehensive Town Plan. *This development is subject to PUD review despite the removal of the individual lots (see below)*

10.13.2.2. Multiple principal structures are proposed on a single lot. 10.13.2.3. Construction or substantial improvement of a single structure containing multiple uses with a total floor area in excess of 10,000 square feet is proposed. *Three (3) duplexes are proposed on one 28.97 acre common lot. This constitutes multiple principal structures.*

10.13.3. Coordination of Review: Applications for PUDs shall be reviewed pursuant to Section 10.12, Subdivision Review. PUDs may be classified as minor or major subdivisions, pursuant to Section 10.12.3. A PUD may include any permitted or conditional uses in the District which it is located, subject to all required review. Any subsequent zoning permit, site plan or conditional use approval within an approved PUD shall incorporate all applicable conditions of the PUD approval. *This application is subject to conditional use review based on the request for density bonus. See table of use chart, 4.4.2.2. Conditional use is reviewed below.*

10.13.4. Designation of Open Space Lands: All PUDs shall make provisions for the preservation of open space, except that open space land shall not be required for PUDs located in the Village Center District. The lands set aside to be preserved for open space shall be reviewed and approved by the Development Review Board, in accordance with the following:

10.13.4.1. The following areas shall be contained within the open space portion of the PUD or otherwise protected through building envelopes and deed restrictions on individual lots:

(a) Areas within the Wetlands Overlay District, *← Wetland Overlay outside "developable" area. No building envelope is shown on the plat. Staff recommends applicant including a building envelope to designate areas which will not be impacted. After discussing with the applicant's engineer, location of silt fence will serve as designated building envelope.*

(b) Areas within the River Overlay District, *← Very small area of River Overlay is located on the common area of this parcel, well outside developable area.*

(c) Areas within the WHPA-1 area of the Wellhead Protection Area Overlay District, and *←No Wellhead Protection Area is located inside this parcel boundary.*

(d) Areas within the Natural Resources Protection Overlay District, except as provided by Section 6.4.4.1. *←No Natural Resource Overlay is located inside this parcel boundary.*

10.13.4.2. The overall layout of the PUD shall minimize the disturbance of the areas listed below:

(a) Areas with slopes greater than twenty-five percent [25%], *←Steep slopes to south/southwest of proposed building area exist, as shown on plat. No disturbance is proposed, but is included in the sewage shield. After discussing with the applicant's engineer, location of silt fence will serve as designated building envelope.*

- (b) Prominent hill sides, ridgelines and significant rock outcroppings,
- (c) Areas containing prime or statewide agricultural soils and other productive agricultural and forest land.
- (d) Historic and cultural resource areas
- (e) Scenic Resources
- (f) Large Habitat Blocks Where feasible, these areas should be contained in the open space portion of the PUD or otherwise protected through building envelopes and deed restrictions *←Habitat block shown on plat, follows steep contours. Outside developable area. After discussing with the applicant's engineer, location of silt fence will serve as designated building envelope.*

10.13.4.3. Open space land shall have a coherent purpose, such as the preservation of a wildlife corridor or a scenic outlook, or creation of an interlocking trail system, or preservation of land with agricultural potential, or some similar feature.

10.13.4.4. Land designated as open space shall be indicated with appropriate notation on the final development plat. Open space land shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for its maintenance. *Common land, not open space, has been indicated on the final plan. DRB should determine if "common land" is synonymous with open space in regards to the protections offered. In the declaration of covenants/deeds etc. the applicant uses "Common land open space management" as the language (6.11) After discussion with staff, applicant's engineer has stated that for the purposes of this application, common land is synonymous with open space.*

10.13.5. Configuration of Open Space: The Development Review Board shall determine the configuration of open space land based on the following:

10.13.5.1. The configuration of the open space land and the covenants governing its usage shall reflect the purpose of the open land and be suitable for its intended use.

10.13.5.2. Open space land shall not be required in the Commercial and Village Center Districts. Open space shall be equivalent to at least 25% of the entire parcel in the Village District, and shall be equivalent to at least 50% of the entire parcel in the remaining districts. *This parcel is located in the Agriculture zoning districts and thus requires 50% of the land to be designated as open space. Plans indicated that aside from the actual duplexes, all the land on the parcel will be common land. Staff has requested town attorney review whether or not this satisfies the regulations.*

10.13.5.3. Open space land shall be configured to provide for large contiguous open space lands on the parcel. Fragmentation of open space land shall be avoided to the greatest extent possible. Narrow strips of open space land shall only be approved when necessary to connect significant areas or when designed to protect linear resources such streams or trails.

10.13.5.4. If the parcel to be developed contains currently productive agricultural land, the acreage set aside as open space land should be of a quality, size and configuration that make continued agricultural use possible.

10.13.5.5. Open space land shall be contiguous with existing and potential open space land on adjacent parcels. *Land is currently adjacent to the parent parcel, used primarily for agriculture.*

10.13.6. Ownership of Open Space Lands: Open Space Land may be set aside as common land, as a separate undeveloped lot, or as a portion of a single lot, outside of the building envelope, to be held in private ownership. Open space land shall be dedicated, either in fee or through a conservation easement approved by the Development Review Board, to the municipality, an owners' association comprised of present or future owners of the subdivided lots, and/or a nonprofit conservation organization. The ownership type shall be consistent with the best means of maintaining or managing the resources on the site. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of the applicant and subsequent landowners.

10.13.6.1. Common Open Space: The following provisions shall apply to commonly owned open space lands:

(a) The common open space land may be used for water supply and/or septic waste disposal, either common or individual, provided that adequate control over the use of the land for these purposes is retained by the party or parties responsible for the maintenance of these facilities.

(b) Public access of common open space lands may be required when it may facilitate a trail network, or where public benefit may be obtained by access to unique natural features, or for some related access. *Jericho Trails Committee has approached staff to request a 20' pedestrian easement to connect Norton meadows to a future pedestrian pathway AND a condition of the approval that any future development on RW044 will require a 20' pedestrian easement.*

10.13.6.2. Privately Owned Open Space: *N/A*

10.13.7. Permitted Density: Total approved residential density in a PUD shall be determined by calculating the total number of potential lots in a conventional subdivision. As provided in Section 5.6 (Density), each potential lot in a conventional subdivision shall entitle the applicant to one [1] single family dwelling, or two [2] multifamily dwelling units within the PUD, provided all other requirements of these regulations can be met. This procedure shall not apply to affordable or elderly housing in the Village Center District, which in accordance with Section 5.6, shall be limited by lot coverage rather than by the number of dwellings per acre. The maximum number of potential lots in a conventional subdivision shall be determined in accordance with the following: *No lots are proposed, but a potential standard subdivision of this land would yield 2 building lots.*

10.13.7.1. The total number of potential lots in a conventional subdivision shall be calculated by dividing the total acreage of the parcel by the minimum lot area in a conventional subdivision, less twenty-five percent [25%] to account for topography, soils, dimensional and frontage requirements, rivers, streams and wetland areas, and other site restraints and overlays. A twenty-five percent [25%] reduction in the number of potential lots shall not be required in the Village Center Zoning District. *The density calculation on the total acreage of this parcel (28.96ac), less 25%, the developable area is 21.73 acres. This parcel potentially yields two (2) single family dwellings, or four (4) multifamily dwellings.*

10.13.7.2. Density Plan – *None proposed.*

10.13.8. Density Bonus: At the request of the applicant, the Development Review Board may increase the total number of approved dwelling units by up to fifty percent [50%] and/or increase maximum lot coverage by up to fifteen percent [15%] if one or more of the criteria listed below are met. In determining if a density bonus is warranted, the Development Review Board shall consider the overlay layout of the PUD, compatibility with the Jericho Comprehensive Town Plan, and the ability of the site to support additional units. In order to be eligible for a density bonus, a PUD shall meet at least one of the following criteria:

(a) The PUD contains designated affordable or elderly housing. Designated affordable or elderly housing units shall be indicated on the final plat. Affordable housing developments serving a very-low income population (80% of area median household income) may be eligible to increase the total

number of approved dwelling units by up to one-hundred percent [100%] and/or increase maximum lot coverage by up to thirty percent [30%]. Such lots or units shall be subject to appropriate restrictions to ensure that they meet the definition of affordable or elderly housing contained within these regulations in perpetuity. *Applicant is proposing this development as senior/elderly housing, and thus is requesting a 50% density bonus of 1 duplex (2 units). Based on the permitted density, this would total 3 duplexes (6 units).*

(b) The PUD contains structures meeting recognized standards for enhanced energy efficiency. Energy efficiency standards eligible under this provision shall meet or exceed the Vermont ENERGY STAR® Homes Silver Rating. In granting a density bonus, the Development Review Board may attach reasonable conditions to ensure that the structures are built to certification standards, such as third party review and verification/certification prior to the issuing of a Certificate of Occupancy.

(c) The PUD provides for additional public access to resource lands, beyond that which is required to provide safe circulation within and between developments. Such access shall be noted on the final plat and contained in deed, covenant, or easement language for the subject parcel.

10.13.8.2. Requests for a density bonus shall be made at sketch plan review. If the applicant elects not to participate in sketch plan review, the request shall be made at preliminary review for major PUDs or final review for minor PUDs. *The original proposal for this density bonus was initially made at sketch review.*

10.13.8.3. Disclaimer: Nothing in this section shall be read so as to require the Development Review Board to grant a density bonus to any applicant. Any bonus granted under this section shall be specific to the parcel to which it has been granted. A bonus on one parcel shall not be construed as a general guideline or standard for any other parcel.

10.13.9. Development Standards and Dimensional Regulations:

10.13.9.1. All PUDs shall comply with the subdivision review standards in Section 10.12, any and all applicable Specific Use Standards in Section 4.4 and the General Provisions in Section 7. *See subdivision standards (above). No specific use standards or general provisions are proposed.*

10.13.9.2. The Dimensional Requirements within a PUD shall comply with Table 5.8 below. *All dimensions are shown as met on the proposed site plan.*

Table 5.8	Agricultural
Min lot size (PUD)	0.50 acre
Max lot coverage	30%
Side setback	15ft
Front setback	25ft
Rear setback	20ft
Buffer zone	100ft

10.13.9.3. Lot coverage within a PUD shall be calculated based on the total coverage of the PUD, including open space land. Individual lots or portions of the PUD may exceed the acceptable maximum lot coverage, provided there is an offset by a lesser lot coverage in (an)other portion(s) of the PUD. *Total impervious area: .93 acres*

10.13.9.4. A buffer zone between lot boundaries and the boundary of the PUD shall be maintained so as to provide screening sufficient to mitigate adverse impact on adjacent properties. The minimum required buffer zone for each district is specified in Table 5.8. The buffer zone shall be part of the common open space or removed from the building envelopes of individual lots. The Development

Review Board may waive this requirement when it is found that there is no adverse effect on neighboring parcels to be mitigated. *Shown on site plan as 13 Australian pines (6' high)*

10.13.9.5. Variable lot sizes are acceptable within a PUD, provided that they advance the goals of the Jericho Comprehensive Town Plan and Section 10.13.1 above, and are in keeping with the purpose of the district in Section 3.2. *No lots are proposed*

10.13.9.6. In all districts a PUD may include, subject to conditional use review, an accessory office, common laundry, storage, kitchen/dining area, and/or indoor recreational facility for use by residents of the PUD and their invited guests. *None are proposed*

10.13.9.7. PUDs shall provide for vehicular and pedestrian connectivity with neighboring developments wherever possible. *Trails committee has requested the DRB approve a pedestrian easement along the boundary of 61 Raceway Road to the ROW on raceway road to provide for future pedestrian circulation. The Trails Committee is also requesting that the DRB approve a condition requiring the parent parcel, RW044, provide a pedestrian easement of 20' at the time the lot is developed.*

10.13.9.8. Subdivision boundaries, access roads, utilities, lot lines and layout, and building envelopes shall be located and configured to avoid fragmentation of, and adverse impacts on, the resources listed in Section 10.10.4.1 above. *NO lots are proposed. UNITS have been organized to limit impact on lower wetland/habitat block. NO building envelopes appear on the final plan.*

10.13.9.9. The overall layout of the PUD should incorporate or protect cultural and historic sites and features, as well as other features stated in § 10.13.4.2.

10.13.9.10. Access roads, driveways, and utility corridors shall be shared to the furthest extent possible, shall follow site contours to minimize the need for grading, and shall follow existing linear features such as roads, tree lines, stone walls, or field edges to minimize the fragmentation of open agricultural land and other resources.

10.13.10. Specific Standards for the Village Center Zoning District *N/A*

10.13.11. PUDs involving two [2] or more parcels *N/A*

GENERAL DEVELOPMENT STANDARDS §11.

11.1. Access - Public/Private Roads and Driveways

11.1.1. Conformity with Public Works Specifications: All streets/roads and driveways shall be designed to meet the requirements of the Public Works Specifications of the Town of Jericho, unless waived by the Selectboard, and shall be depicted on the Plat for review by the Development Review Board prior to final plat approval.

11.1.2. Private Driveways: No more than three [3] lots may be served by a private driveway. The interest of the owner of each lot served by a common or shared driveway shall be protected by an easement recorded in the deed of each lot involved. Private driveways shall have a maximum grade of 15%, a minimum width of 12', and be capable of supporting the weight of a two-axle, 40,000 pound vehicle. For any new subdivision with a shared driveway over 100' serving up to 3 lots, the maximum grade shall be 15%, the driveway shall have at least a 15' wide improved travel way, or shall, at intervals of 100' of length, have other provisions for the passing of oncoming vehicles; and shall have an adequate turnaround at the end. The grade for any portion of a driveway within the Town right-of-way shall be - 3%. (all drives must slope away from the road). See also the detailed requirements of "Access Standards"

on the Town of Jericho Road Access Permit application. Curbcuts shall be limited to one per residential property. These provisions are contained in the Town of Jericho Public Works Specifications amended 1/22/09 and shall be superseded by any revisions to the same. *At the 09/25/14 DRB hearing, applicant stated Norton Lane is a driveway which meets road standards. This is true, with the exception: "Maximum grade within 100% of intersection centerlineshall not be greater than 3%" (Public Works Specs). However, since this is not proposed as a road, it is not relevant to this application. DRB should note that 11.1.2. states 3 Lots may be served by a private drive, not 3 residences. This does not impact status of application, as there is only one lot that will be served by this driveway.*

11.1.4. Construction and Maintenance: The applicant shall be responsible for construction and maintenance of all streets until such time as the Selectboard approves the construction and accepts the street as a public street; unless otherwise provided during the approval process.

11.1.5. Traffic Study/Off Site Improvements:

11.1.5.2. If, in the Development Review Board's judgment, there will be an adverse impact from the proposed development on existing access roads, the Development Review Board may require the applicant to improve the access road(s). *Based on the trip generation calculations produced by ITE (submitted at final review), no triggers are met to warrant a traffic study for this development [11.1.5.1 (a)-(g)]. Applicant stated the following in a memo submitted for the 09/25/14 hearing: "According to the Institute of Traffic Engineers three 55+ Duplexes will generate 1 AM peak hour trips, 1 PM peak hour trips and 21 daily trips as compared to three single family homes generating 2 AM peak hour trips, 3 PM peak hour trips and 29 daily trips. This low level of traffic does not require further traffic evaluation and the 55+ duplexes will create less traffic than 3 single family homes"*

11.1.6. Access:

11.1.6.1. The Development Review Board may require measures such as speed change lanes, turning lanes, right turn only egress or other design elements necessary to provide for safe circulation and on the site and on adjoining road. The DRB may require additional improvements and configuration to improve and facilitate pedestrian access and safety. *No measures proposed by DRB in previous hearing on 09/25/14*

11.1.6.2. At road and driveway access points, the Development Review Board may require measures such as striping, contrasting or textured paving, and/or mountable curbs to define narrower car lanes while maintaining sufficient pavement width for safe turning of larger vehicles. *No measures proposed by DRB in hearing on 09/25/14*

11.2. Parking/Loading/Circulation

11.2.1. Off Street Parking Requirements Adequate off-street parking shall be provided in conjunction with any improvement or change of use requiring a zoning permit. Except as provided within Section 11.12.5: "Alternative Parking Arrangements", all parking shall be on the same premises as the proposed improvement.

11.2.2. Number of Parking Spaces Required 11.2.2.1. The following table indicates the minimum number of parking spaces to be provided for each use: *Required: 2.2 Multifamily 2.0 per unit + 1 per every 8 units*

11.3. Pedestrian Facilities

All public and private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic. To the extent feasible, pedestrian and

vehicular circulation shall be separated by curbing, plantings or reserve strips, and should cross or intersect in controlled locations and manners. *No pedestrian facilities proposed. No existing pedestrian facilities exist on Meadow Drive/ Foothills.*

11.3.3. In addition to sidewalks required by 11.3.1, the Development Review Board may require permanent pedestrian easements up to twenty-five [25] feet but not less than ten [10] feet in width in order to facilitate pedestrian circulation within a development, between adjoining neighborhoods, or to provide access to parks, schools, shopping centers, centers of employment and community facilities. *The Town of Jericho via the Jericho Trails Committee is requesting an easement along the boundary of RW061 to accommodate the circulation of pedestrians to raceway road and potential future developments.*

11.4 Lot Layout

11.4.1. Each lot shall have the minimum area and frontage required by these regulations, unless modified through the Planned Unit Development provisions in Section 10.13 of these regulations. *Common lot meets the dimensional requirements for a standard subdivision. No individual lots are proposed.*

11.4.2. Lots shall be of sufficient size to provide an adequate building site with suitable areas and adequate isolation distances for sewage disposal and water supply both on site and neighboring properties. The Development Review Board may require larger lots than required by these regulations where deemed necessary because of conditions affecting drainage, sanitary sewage disposal, or water supply. *No lots are proposed—water supply shown on plan sheet 2 as drilled wells (3 total). Sewage shield shown on plan sheet 1. “Westerly limits of foothills water source” shown as intersecting both of these.*

11.4.3. Where lots are more than double the minimum required area for the zoning district, the Development Review Board may require that development on such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots. *The western portion of the lot is undevelopable. The applicant is utilizing the developable land as proposed—no space available for future development on this lot.*

11.4.4. Corner lots shall be of sufficient dimensions so that any structure placed thereon shall conform with the front yard setback requirements on each street. *None proposed*

11.4.5. Each lot shall be provided with satisfactory access to a road meeting the requirements of Section 11.1 of these regulations. *Norton Lane proposed as a 24' wide (60' ROW) driveway for these proposed residences. As a driveway, access meets standards.*

11.4.6. No privately owned reserved strip shall be permitted which controls access to any part of the development or to any other parcel of land from any street or other open space dedicated to public use or which may be so dedicated. *All land will be common land, with no limited common elements. Legal documents shall be revised to reflect this.*

11.4.7. Wherever feasible, lots shall be laid out to provide access onto minor streets rather than collector streets, and wherever possible to avoid direct access to major streets and highways. *Norton lane proposed onto Meadow Drive as opposed to Raceway Road.*

11.4.8. The Development Review Board shall encourage lot layout that will preserve open space areas and significant natural resources. *Wetland and habitat block to the west are outside developable area.*

11.4.8.1. Building Envelopes: All lots shall have designated building envelopes that shall not include areas within the Wetlands Overlay District, the River Overlay District, the WHPA-1 of the Wellhead

Protection Area Overlay District, and the Natural Resources Protection Overlay District (except as provided by Section 6.7.5.1). *Staff recommends providing building envelopes around the developable area to minimize impact on Wetland Overlay/ Habitat Block. After discussing with the applicant's engineer, location of silt fence will serve as designated building envelope.*

11.4.8.2. In areas containing currently productive agricultural land, building envelopes shall be located at field edge or on the least productive areas in order to minimize the fragmentation of agriculturally productive lands, impacts on existing farm operations, and disruption of the scenic qualities of the site.

11.4.8.3. If the parcel to be developed is largely forested, building envelopes shall minimize the extent of forest clearing required for development. Forest fragmentation and tree removal shall be kept to a minimum.

11.4.8.4. In order to minimize land use conflicts, the Development Review Board may require vegetative buffers or other mechanisms to separate building lots and subsequent development from agricultural and forestry operations, recreation areas, and critical wildlife habitat.

11.4.9. Energy Conservation: Lot layout, including orientation of buildings and vegetation, should be designed so as to promote the conservation of energy and to permit the utilization of renewable energy resources.

11.4.10. Monumentation: Lot corners along public road frontage shall be marked by concrete monuments. All other lot corners shall be marked by iron pins or steel pipes. *Pins/pipes to be installed along boundaries of proposed 28.97 acre lot.*

11.5 Grading/Slope/Ridgeline

11.5.1. All land development and subdivision shall be planned to retain, as much as possible, the natural contours and to conserve the natural cover and soil. The landscape shall be preserved in its natural state, as much as practical, by minimizing tree and soil removal and nonessential grading. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. *Steep slopes exist to the southwest of the parcel. No construction is proposed along said slopes. After discussing with the applicant's engineer, location of silt fence will serve as designated building envelope.*

11.6. Recreation/Open Space/Common Land

11.6.1. As a condition to the approval of any plan relating to a residential subdivision or residential development, the Development Review Board may require that up to fifteen percent [15%] of the areas on the plat be dedicated for the purpose of a public park, playground or other outdoor recreation purpose. The Development Review Board may require dedication of recreation land to the Town, land trust or other non-profit association, establishment of a homeowners association, or other means to ensure the long term ownership and maintenance of the recreation land. *None proposed.*

11.7. Water Supply and Sewage Disposal

11.7.1. No zoning permit shall be issued for any structure requiring facilities for water supply or sewage disposal, including a mobile home, in any district, unless applicable approvals have been obtained from the Vermont Agency of Natural Resources and/or the appropriate Water District. *A permit has been issued for this property, received by the Jericho Planning and Zoning Department on 09/25/2014. Wastewater permit was appealed, and upheld.*

11.8. Landscaping

11.8.1. Preservation of Landscape: Finished site contours shall depart only minimally from the character of the natural site and the surrounding properties. Removal of vegetation shall be limited to the minimum necessary for safe construction. Areas disturbed through construction shall be revegetated by the applicant. Where development occurs in a forested or partially forested area, the applicant may be required to submit recommendations from a professional forester regarding placement of improvements and removal of trees. Where tree coverage does not exist or has been removed, new plantings may be required. *Plan sheet 2 shows 2 rows of Australian pines (6') to be planted as screening from adjacent landowners.*

11.8.2. Landscaping Budget Requirement: For all site plans, the Development Review Board *may* require minimum planting costs of up to three percent [3%] of total construction/improvement costs.

11.9. Site Layout and Design

The siting and architectural design of the project shall be compatible with existing and planned improvements and the character of the area in which it is to be located, as defined by the purpose of the zoning district, the Jericho Comprehensive Town Plan, and the standards listed below. The Development Review Board should encourage the use of a combination of common materials and architectural characteristics, landscaping, buffers, screens and visual interruptions to create attractive transitions between buildings of different architectural styles.

11.9.2. Rural Residential, Village, and Agriculture and Forestry Districts: Site layout and design shall reinforce the rural landscapes of these districts. Development shall be sited to minimize, to the extent feasible, encroachments on natural resources and environmentally sensitive areas including steep slopes, open fields and prominent ridgelines and hillsides. Commercial uses shall be sited so as to blend with the predominately rural/residential character of these areas.

11.11. Outdoor Lighting

Lighting shall be kept to a minimum consistent with the requirements of pedestrian and vehicular safety and convenience in accordance with the Public Works Specifications and the following standards:

Proposed light post at end of drive has been removed from plans, as per request of abutters.

11.12. Utilities

11.12.1. All existing and proposed utilities and utility Rights-Of-Way/easements, including but not limited to electric, telephone, gas, fiber optic and cable television, shall be shown on the final plat.

11.12.2. All new utilities shall be placed underground from the nearest available port, unless the Development Review Board determines that burial of utilities would result in an undue adverse impact to natural resources or would be prohibitively expensive. Prior to approving overhead utilities, the DRB shall require independent technical review in accordance with Section 10.8.6 to determine if the above conditions are met. *All new utilities are shown underground on the submitted plans.*

11.12.3. The applicant shall coordinate development design with utility companies to ensure that suitable areas are available for underground installation within and adjacent to the proposed development. Utility easements of sufficient width shall be provided to serve both the proposed development, and future service extensions to adjoining properties. *Applicant has not testified that there are any issues arising with utilities*

11.12.4. Utility corridors shall be shared with other utility and/or transportation corridors where feasible and shall be located to minimize site disturbance.

11.13. Storm Water (subdivision section III.6)

11.13.1. Post-Construction Stormwater Management: The applicant shall install a storm water management system along all new streets and at other required locations. This system shall meet the following standards:

11.13.1.1. Development shall minimize stormwater runoff and utilize pervious areas for stormwater infiltration and treatment. Existing natural drainage ways shall be incorporated into the design of the management system to the fullest extent possible.

11.13.1.2. The stormwater management system shall be designed, installed and maintained in accordance with the requirements of the latest version of the Vermont Stormwater Management Manual and the Jericho Public Works Specifications. In the event of conflicting design criteria within these standards, the stricter shall apply. *Applicant testified at final review on 09/25/2014 that proposed stormwater system meets state standards, though not required.*

11.13.1.3. Applicants are encouraged to incorporate Low Impact Development techniques and practices into the stormwater management system. *As stated at final review, proposed roadway and drainage swales will utilize the project's stormwater system. As such, no adverse impact is anticipated on the drainage concern, which is likely to be improved as a result of the proposed project.*

11.13.1.4. All development requiring Development Review Board approval resulting in more than one-half [0.5] acres of new impervious surface and all major subdivisions shall at minimum meet the Recharge (Rev) criteria and the Water Quality Volume (WQV) criteria, as defined in the Vermont Stormwater Management Manual. Applicants are strongly encouraged to utilize non-structural practices such as the Voluntary Stormwater Management Credits provided for in the most recent version of the Vermont Stormwater Management Manual in order to satisfy this requirement.

11.13.1.5. The interest of the owner of each lot served by the stormwater management system shall be protected by an easement recorded in the deed of each lot involved. *Awaiting submittal of revised documents by applicant. Draft documents submitted for final review include stormwater management maintenance in Article VI 6.1 (a) and 6.4 (a)-(c)*

11.13.1.6. Uses defined as "stormwater hotspots" in the Vermont Stormwater Management Manual, including those creating less than one acre of impervious surface, shall comply with all applicable requirements of the Vermont Agency of Natural Resources. Stormwater runoff from a stormwater hotspot shall not infiltrate into groundwater unless an individual stormwater permit from the Vermont Agency of Natural Resources is obtained.

11.13.1.7. Culverts or other drainage facilities shall, in each case, be large enough to accommodate potential run-off from the entire upstream drainage area, whether inside or outside the Development. The Development Review Board shall approve the design and size of facilities based on anticipated run-off under conditions of total potential development and a twenty five [25] year storm. The applicant's engineer shall provide such information as the Development Review Board deems necessary to make the determination of the adequacy of the facilities.

11.13.1.8. The applicant's engineer shall provide such information as the Development Review Board deems necessary to determine the effect of the development on existing downstream drainage facilities outside of the area of development. Where anticipated discharge from the proposed development during a twenty-five [25] year storm will overload existing downstream drainage facilities, the Development Review Board may condition final approval upon improvement of the downstream facilities to prevent such an overload. Any construction required to prevent such overload and subsequent damage may be located on or off the applicant's site.

11.13.2. Erosion and Sediment Control During Construction:

11.13.2.1. At minimum, all construction shall comply with the erosion control practices detailed in the most recent version of the Vermont Agency of Natural Resources Low Risk Site Handbook for Erosion and Sediment Control.

11.13.2.2. Plans meeting the guidelines of the latest edition of the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites, shall be submitted for all major subdivisions or when otherwise required by the Vermont Department of Environmental Conservation. The Development Review Board may also require erosion plans when development is proposed to occur on slopes greater than fifteen percent [15%], unvegetated areas or other areas with fragile soil conditions. In order to determine whether or not an erosion control plan is needed, the Development Review Board may require the applicant to provide a Risk Evaluation Checklist from the Vermont Department of Environmental Conservation. *N/A: minor subdivision*

11.13.2.3. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the Development Review Board to protect areas exposed during the development. Sediment basins (debris basins, desilting basins, or silt traps) shall be installed and maintained during development to remove sediment from run-off water from land undergoing development. At minimum, these measures shall comply with the practices described in the Vermont Agency of Natural Resources Low Risk Site Handbook for Erosion and Sediment Control.

11.13.2.4. Erosion prevention and sediment control practices for construction that occurs from October 15th to May 15th shall conform with Section 3.2 Winter Construction Limitations of the Vermont Standards and Specifications for Erosion Prevention and Sediment Control, or the most recent Vermont Agency of Natural Resources standards for winter construction

10.9. CONDITIONAL USE REVIEW

10.9.1. Purpose: Conditional use review is intended to subject specified uses to more careful scrutiny because of the potential for adverse impacts to adjoining properties, the neighborhood, or the community at-large. *Conditional use review is required for duplexes in the agriculture zoning district. As per discussion at final review and submission of the memorandum by applicant's engineer on 09/25/2014, this language is contradictory to 10.13.7. "As provided in section 5.6 (Density), each potential lot in a Conventional Subdivision shall entitle the applicant to one (1) single family dwelling , or two [2] multifamily dwelling units within the PUD, provided all other requirements of these regulations can be met"*

10.9.2. Applicability: Before the Zoning Administrator may issue a Zoning Permit, a conditional use requires approval of the Development Review Board subject to the procedures of Section 10.8. Conditional uses are those specified for a given zoning district in the Table of Uses in Section 4.3. A use designated as a conditional use shall not require separate site plan review. Site plan review standards, submission requirements and approval conditions in Section 10.10 shall become part of the conditional use review standards.

10.9.3. Standards: In granting approval for a conditional use, the Development Review Board shall determine the area likely to be affected, and that the use shall not result in an undue adverse effect on any of the following general standards from the ACT [§4414(3)(A)]:

10.9.3.1. The capacity of existing or planned community facilities. The Development Review Board shall determine that facilities (e.g. water, sewer, schools, fire protection, roads) are reasonably available to serve the use or are planned to serve the proposed use at its anticipated time of occupancy. *No impact on schools. Fire dept has issued letter to confirm ability to service. Traffic increase is minimal. ANR has issued permit for 3 drilled wells and on site shared sewage disposal. No change from original proposal.*

10.9.3.2. The character of the area affected as defined by the purpose of the zoning district in which the use is located, and by specifically stated policies and standards of the Jericho Comprehensive Town Plan. At a minimum, the Development Review Board shall determine that: *No change from original application.*

(a) nuisance or hazard will not be created to the detriment of the health, safety, or welfare of the occupants of the proposed use or the citizens of Jericho; *No change from original application: no nuisance or hazard will be created to the detriment of Jericho.*

(b) the proposed use, including any building associated with the use, will be in general harmony with the character of the surrounding neighborhood and will not adversely impact abutting residences or other property; and *No change from original application. Environmental court ruled that this development is in general harmony with surrounding neighborhood. The foothills development is located in village zoning, but the area itself is rural. Light post removed from application. Minimal traffic to be created on Meadow Drive.*

(c) the proposed use, including any building associated with the use, will be compatible with the stated purpose of the zoning district in which the use will be located. *No change from original application. Several other multi-family dwellings are located in Jericho's agriculture zoning district.*

10.9.3.3. Traffic on roads and highways in the vicinity: The Development Review Board shall determine that traffic generated or patterns of access or egress will not cause congestion, hazard, or detriment to the established neighborhood character. In making this determination, the Development Review Board may consider any traffic study required by Section 11.5.1 of these regulations *See above comments in general development standards*

10.9.3.4. Bylaws and ordinances then in effect.

10.9.3.5. Utilization of renewable energy resources.

10.9.4. Additional Review Standards: The Development Review Board shall consider and may impose appropriate safeguards, modifications, and conditions relative to the following standards:

10.9.4.1. All site plan review standards and approval conditions in Section 10.10 below

10.9.4.2. The cumulative impact of the proposed conditional use taken together with other conditional uses in the area

10.9.4.3. If the proposed use involves the sale or storage of hazardous materials, protection for public and private water supplies, adjacent properties, wetlands or other environmental features, and human health shall be ensured. Particular care shall be taken with respect to potential impacts on water resources in the Wellhead Protection Overlay District, Wetlands Overlay District, and the River Overlay District. To facilitate evaluation of the proposed use, the Development Review Board may require an independent analysis, in accordance with Section 10.8.6 of these regulations. *No hazardous materials proposed.*

10.9.5. Expiration of Approval:

10.9.5.1. Conditional use approval shall expire if a zoning permit is not obtained within 180 calendar days of approval unless the Development Review Board grants an extension.

10.9.5.2. The Development Review Board may grant an extension of conditional use approval for reasonable and substantial cause. *Applicant should contact staff within an appropriate timeframe if seeking an extension of conditional use approval*